



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,728	11/29/2000	William P. Acker	MTIP001US	9617

27949 7590 04/10/2003

LAW OFFICE OF JAY R. YABLON
910 NORTHUMBERLAND DRIVE
SCHENECTADY, NY 12309-2814

EXAMINER

CREPEAU, JONATHAN

ART UNIT	PAPER NUMBER
----------	--------------

1746

DATE MAILED: 04/10/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/725,728

Applicant(s)

ACKER ET AL.

Examiner

Jonathan S. Crepeau

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19, 21-39, 41 and 42 is/are allowed.
- 6) ☒ Claim(s) 20 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 10.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 27, 2003 has been entered.

This Office action addresses claims 1-42. Claims 1-19, 21-39, 41, and 42 remain allowed. Claims 20 and 40 are newly rejected under 35 USC §103. This action is non-final.

Claim Rejections - 35 USC § 103

2. Claims 20 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edlund et al (U.S. Patent 6,383,670) in view of McKinney et al (U.S. Patent 5,126,729).

In Figure 3 and in column 5, lines 42-46, Edlund et al. teach a fuel cell system comprising a controller (28) for receiving an input of a fluid level measurement of fuel tanks (78, 80). The controller subsequently directs refill fluid to be automatically added to the tanks. In column 3, lines 21-34, the reference teaches that the communication pathway may be a telecommunications link (e.g., radio frequency, wireless signals). The reference further teaches that the fluid may be added from an "external" source.

However, Edlund et al. do not expressly teach that the refill fluid is automatically ordered from a supplier of source fuel replacements, as recited in claims 20 and 40.

The patent of McKinney et al. is directed to an automated chemical storage and chemical feed system. In column 2, line 16 et seq., the reference teaches that a level sensor measures the level of a chemical in a tank at a use station. The information is delivered over a telemetry system to a remote supply station, whereby a person at the supply station automatically orders a replenishing supply to be delivered to the use station on the basis of the level sensor information.

Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because the disclosure of McKinney et al. would motivate the artisan to have the refill fluid of Edlund et al. automatically ordered from a remote supplier of source fuel replacements. It is noted that Edlund et al. further teach at column 5, line 46 that "[i]f no additional fluid is available and the level drops below determined minimum levels, then the controller may take the appropriate programmed response, such as executing the control system's shutdown subroutine and alerting the user of the problem, or fault, via user interface 58." Thus, Edlund et al. are concerned with maintaining an adequate amount of fuel in the system. Regarding the disclosure of McKinney et al., the reference teaches in column 3, line 16, that "[i]t is therefore an object of the invention to provide a chemical storage and chemical feed system that monitors the chemical supply station from a remote supply station to enable automatic ordering of a replenishment of a supply of chemical, thereby eliminating human error in the ordering process, and also eliminating the possibility of running the process at the use station without chemicals." Thus, McKinney et al. are also concerned with ensuring sufficient amounts of chemicals. Therefore, the artisan would be motivated to have the refill fluid of

Edlund et al. automatically ordered from a remote supplier of source fuel replacements, as disclosed by McKinney et al. Accordingly, the subject matter of claims 20 and 40 would be rendered obvious to the skilled artisan.

Allowable Subject Matter

3. Claims 1-19, 21-39, 41, and 42 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter:

The reasons for allowance of independent claims 1, 13, 21, and 33 were given in the Office action May 15, 2002 and remain applicable.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: JP 9-24999, which relates to a method of automatically placing and accepting an order for fluid components, and JP 2-125560, which relates to a fuel oil automatic ordering system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Crepeau whose telephone number is (703) 305-0051. The examiner can normally be reached Monday-Friday from 9:30 AM - 6:00 PM EST.

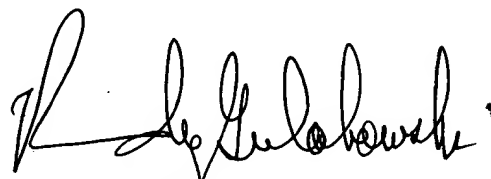
Art Unit: 1746

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached at (703) 308-4333. The phone number for the organization where this application or proceeding is assigned is (703) 305-5900. Additionally, documents may be faxed to (703) 305-5408 or (703) 305-5433.

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

JSC

April 3, 2003



RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700